

# **EXHIBIT 13**

**Exhibit No. [13] to Proposed Pre-Trial Order**

**Defendants' Hanson and Kindt Witness List**

**(Local Civil Rule 16.3(c)(7))**

Defendants Hanson and Kindt may call any of the following witnesses at trial. In addition to those specifically listed below, Defendants Hanson and Kindt may also call any witness listed by Plaintiff or use any deposition excerpt designated by Plaintiff. Defendants Hanson and Kindt also reserve the right to call additional witnesses to provide foundational testimony if Plaintiff contests the authenticity or admissibility of any materials selected to be used at trial, as well as any additional witnesses necessitated by any of the Court's pre-trial rulings. Defendants Hanson and Kindt reserve the right to object to the testimony of any witness listed by Plaintiff in Exhibit 11 to this proposed Pre-Trial Order or to the use at trial of any designation of any deposition excerpts identified by Plaintiff in Exhibit 11.

1. Talton Embry (Magten, live and/or by deposition)
2. Michael J. Hanson (live and by deposition)
3. Ernie J. Kindt (live and by deposition)
4. Bart Thielbar (by deposition)
5. Charles Patrizia (live and/or by affidavit)
6. Steven Scherf (expert, live and by expert report [see report attached to declaration dated November 30, 2007])
7. Bruce Bingham (see expert report was served on Plaintiffs on October 17, 2007)

8. Chris Kearns (see expert report was served on Plaintiffs on October 17, 2007)
9. Kendall Kliewer (NorthWestern, live and/or by deposition)
10. Michel Nieman (NorthWestern, live and/or by deposition)
11. Any other witness identified in the final pretrial order by Plaintiff.
12. Any witness needed for impeachment or rebuttal.
13. Any witness needed to provide foundational testimony.
14. Any witness necessitated by any of the Court's rulings on the pending motions for summary judgment, the pending Daubert motions, or any motions in limine or other pre-trial rulings.

Witness by Deposition and Counter Designations to Plaintiffs' Designations of Witnesses by Deposition (with transcript designations)

**Michael Hanson**

Any designations made by Plaintiff

- p. 11 line 12 – p. 12 line 25
- p. 21 line 15 – p. 22 line 11
- p. 59 line 16 – p. 59 line 19
- p. 64 line 6 – p. 64 line 11
- p. 64 line 14 – p. 64 line 25
- p. 65 line 23 – p. 65 line 25
- p. 84 line 7
- p. 98 line 16 – p. 98 line 25
- p. 107 line 16 – p. 107 line 21
- p. 120 line 7 – p. 120 line 13
- p. 127 line 16 – p. 127 line 25
- p. 213 line 13 – p. 214 line 4

p. 252 line 1 – p. 254 line 15  
p. 265 line 7 – p. 265 line 24  
p. 289 line 17 – p. 289 line 20

**Merle Lewis**

Any designations made by Plaintiff

p. 35 line 3  
p. 41 line 23 – p. 41 line 25  
p. 65 line 20 – p. 66 line 4  
p. 66 line 16  
p. 76 line 4  
p. 81 line 18  
p. 123 line 23 – p. 123 line 25  
p. 126 line 18 – p. 127 line 14  
p. 129 line 22 – p. 129 line 23  
p. 132 line 15 – p. 132 line 19  
p. 135 line 22  
p. 138 line 3  
p. 140 line 22 – p. 140 line 23  
p. 141 line 13  
p. 149 line 1 – p. 149 line 25  
p. 162 line 7  
p. 162 line 8  
p. 174 line 15 – p. 174 line 16  
p. 175 line 10 – p. 175 line 11  
p. 182 line 4 – p. 182 line 5  
p. 192 line 14 – p. 192 line 15

**Richard Hylland**

Any designations made by Plaintiff

p. 17 line 25 – p.18 line 22

p. 24 line 14

p. 25 line 22 - p. 25 line 24

p. 29 line 5

p. 31 line 23

p. 39 line 20

p. 40 line 6

p. 47 line 16

p. 53 line 11

p. 56 line 11

p. 58 line 3 – p. 58 line 13

p. 65 line 23 – p. 65 line 24

p. 66 line 17 – p. 66 line 18

p. 66 line 23

p. 67 line 17

p. 74 line 6

p. 77 line 2

p. 78 line 16

p. 81 line 17 – p. 81 line 18

p. 86 line 9

p. 87 line 5

p. 87 line 21

p. 88 line 10 – p. 88 line 11

p. 88 line 22 – p. 88 line 23

p. 92 line 9 – pg. 92 line 12

p. 95 line 12

p. 95 line 22

p. 108 line 13 – p. 108 line 18

p. 112 line 11

p. 123 line 1

p. 131 line 14 – p. 131 line 15

p. 184 line 5 – p. 185 line 15

p. 185 line 18 – p. 185 line 21

p. 193 line 3 – p. 193 line 7

p. 194 line 3 – p. 194 line 8

p. 287 line 19 – p. 287 line 20

### **Michael Nieman**

Any designations made by Plaintiff

p. 21 line 13 – p. 22 line 23

p. 22 line 16 – p. 22 line 23

p. 44 line 2 – p. 44 line 17

p. 57 line 18 – p. 57 line 25

p. 67 line 10 – p. 67 line 19

p. 91 line 11 – p. 91 line 21

p. 102 line 5 - 12

p. 103 line 18 – p. 104 line 14

Errata Sheet

### **Gary Drook**

Any designations made by Plaintiff

p. 15 line 7

p. 16 line 3 – p. 16 line 8  
p. 17 line 7  
p. 19 line 5 – p. 19 line 6  
p. 30 line 15 – p. 30 line 17  
p. 55 line 18 – p. 55 line 19  
p. 65 line 17 – p. 66 line 8  
p. 67 line 16 – p. 67 line 24  
p. 75 line 22  
p. 81 line 19 – p. 82 line 18  
p. 84 line 25 – p. 85 line 5  
p. 102 line 19 – p. 103 line 9  
p. 103 line 10 – p. 103 line 22  
p. 108 line 3 – p. 109 line 3  
p. 109 line 18 – p. 109 line 25  
p. 110 line 4 – p. 110 line 6  
p. 129 line 22 – p. 130 line 8  
p. 138 line 19 – p. 138 line 22  
p. 144 line 14 – p. 144 line 23  
p. 144 line 24 – p. 145 line 3  
p. 149 line 17 – p. 149 line 25  
p. 152 line 19 – p. 152 line 11  
p. 168 line 24 – p. 169 line 21

**Rick Fresia**

Any designations made by Plaintiff

p. 13 line 13 – p. 13 line 17  
p. 17 line 21 - 22

p. 21 line 22 – p. 22 line 20

p. 22 line 1-p. 22 line 20

p. 24 line 19 – p. 24 line 22

p. 24 line 23- p. 24 line 25

p. 27 line 19 – p. 28 line 16

p. 35 line 13

p. 41 line 20 – 21

p. 42 line 1 - 4

p. 43 line 5 – p. 43 line 14

p. 45 line 14 - p. 46 line 14

p. 49 line 22 – p. 50 line 12

p. 53 line 14 – p. 53 line 25

p. 57 line 1 – p. 58 line 7

p. 58 line 25 – p. 59 line 8

p. 77 line 14 – p. 78 line 4

p. 78 line 10 – p. 78 line 14

p. 80 line 12 – p. 82 line 1

p. 86 line 12 – p. 86 line 21

p. 89 line 11 – p. 90 line 15

p. 92 line 7 – p. 92 line 16

p. 96 line 16 - p. 96 line 18

p. 104 line 4 – p. 104 line 11

p. 105 line 5

**Eric Jacobsen**

Any designations made by Plaintiff



p. 14 line 9 – p. 14 line 13  
p. 16 line 2 – p. 16 line 20  
p. 17 line 1 – p. 17 line 17  
p. 20 line 10 – p. 20 line 17  
p. 20 line 18 – p. 21 line 24  
p. 52 line 9 – p. 52 line 13  
p. 60 line 15  
p. 60 line 25  
p. 61 line 17 – p. 61 line 18  
p. 61 line 24  
p. 63 line 3  
p. 64 line 18  
p. 81 line 23  
p. 82 line 24 – p. 82 line 25  
p. 145 line 9  
p. 146 line 11  
p. 146 line 23  
p. 148 line 15  
p. 149 line 6  
p. 153 line 11  
p. 165 line 19  
p. 166 line 16 – p. 167 line 4  
p. 169 line 24 – p. 169 line 25  
p. 170 line 17 – p. 170 line 18  
p. 171 line 12 – p. 171 line 13  
p. 171 line 24

**Kendall Kliewer**

Any designations made by Plaintiff

p. 8 line 8 – p. 8 line 17

p. 16 line 20 – p. 16 line 25

p. 36 line 15 – p. 36 line 16

p. 39 line 6 – p. 39 line 19

p. 40 line 16 p. 40 line 19

p. 42 line 3 – p. 44 line 6

p. 56 line 18 – p. 56 line 20

p. 61 line 17 - 24

p. 80 line 3 – p. 80 line 18

p. 84 line 24 – p. 85 line 13

p. 99 line 3 – p. 99 line 11

p. 110 line 1 – p. 112 line 22

p. 113 line 6 – p. 113 line 15

p. 117 line 17 - 19

p. 117 line 21 – p. 117 line 23

p. 137 line 23 – p. 138 line 16

p. 139 line 6 – p. 139 line 9

p. 151 line 1 - 18

p. 151 line 23 – p. 151 line 25

p. 165 line 12 – p. 165 line 13

p. 175 line 20 – p. 177 line 3

p. 177 line 16 – p. 179 line 13

p. 181 line 6 – p. 181 line 9

p. 183 line 4 – p. 183 line 6

p. 183 line 14- p. 183 line 21  
p. 185 line 12 – p. 185 line 15  
p. 189 line 16 – p. 189 line 17  
p. 191 line 10 – p.191 line 12  
p. 191 line 16 – p. 192 line 1  
p. 210 line 1 – p. 210 line 5  
p. 213 line 4 – p. 213 line 11  
p. 218 line 19 – p. 220 line 2  
p. 227 line 16 – p. 228 line 11  
p. 237 line 3  
p. 239 line 12 – p. 239 line 19  
p. 240 line 5 – p. 241 line 21

Errata Sheet

**Ernie Kindt**

Any designations made by Plaintiff

p. 13 line 13 – p. 13 line 17  
p. 14 line 7 – p. 14 line 9  
p. 14 line 14  
p. 16 line 16 – p. 16 line 25  
p. 17 line 19  
p. 19 line 6 – p. 19 line 10  
p. 20 line 19 – p. 21 line 3  
p. 24 line 16 – p. 24 line 17  
p. 24 line 19 – p. 24 line 25  
p. 25 line 1  
p. 26 line 1 – p. 26 line 2

p. 27 line 11

p. 30 line 6 – p. 30 line 8

p. 30 line 20 – p. 30 line 21

p. 31 line 23

p. 33 line 1

p. 33 line 17

p. 36 line 2

p. 36 line 15 – p. 36 line 16

p. 37 line 13 – p. 37 line 14

p. 38 line 17 – p. 38 line 18

p. 38 line 25

p. 39 line 1

p. 39 line 21

p. 40 line 1 – p. 40 line 2

p. 40 line 20

p. 42 line 2

p. 42 line 23

p. 43 line 7 – p. 43 line 12

p. 43 line 20

p. 44 line 7

p. 44 line 16

p. 46 line 21

p. 47 line 4 – p. 47 line 6

p. 48 line 25

p. 51 line 25

p. 53 line 1

p. 53 line 4

p. 53 line 16

p. 53 line 24 – p. 53 line 25

p. 54 line 1

p. 54 line 8 – p. 54 line 12

p. 55 line 1 – p. 55 line 4

p. 56 line 15 – p.56 line 17

p. 57 line 2 – p. 57 line 3

p. 57 line 22 – p. 57 line 23

p. 58 line 7 – p. 58 line 10

p. 61 line 3 – p. 61 line 9

p. 62 line 5 – p. 62 line 6

p. 62 line 14

p. 62 line 19

p. 63 line 19 – p. 63 line 23

p. 64 line 6 – p. 64 line 7

p. 64 line 17

p. 65 line 10 – p. 65 line 11

p. 65 line 23 – p65 line 25

p. 66 line 18 – p. 66 line 24

p. 67 line 8 – p. 67 line 17

p. 69 line 21 – p. 69 line 23

p. 70 line 25 – p. 71 line 2

p. 71 line 11

p. 75 line 14

p. 78 line 14 – p. 78 line 16

p. 79 line 5 – p. 79 line 10

p. 82 line 11

p. 83 line 5 – p. 87 line 6

p. 90 line 13 – p. 90 line 24

p. 91 line 1

p. 91 line 9 – p. 91 line 10

**Bart Thielbar**

Any designations made by Plaintiff

p. 7 line 11 – p. 7 line 21

p. 8 line 2 – p. 8 line 11

p. 10 line 9 – p. 10 line 20

p. 10 line 25 – p. 12 line 10

p. 13 line 15 – p. 13 line 18

p. 13 line 19 – p. 14 line 1

p. 16 line 24 – p. 17 line 25

p. 17 line 13 – p. 17 line 25

p. 19 line 21 – p. 19 line 23

p. 20 line 16 – p. 20 line 19

p. 29 line 17 – p. 29 line 22

p. 36 line 6 – p. 36 line 11

p. 39 line 7 – p. 39 line 11

p. 40 line 25

p. 41 line 1

p. 41 line 10 - 12

p. 41 line 22 – p. 42 line 1

p. 42 line 16 – p. 43 line 14

p. 45 line 8

p. 51 line 18

p. 58 line 1

p. 61 line 22 – p. 62 line 3

p. 62 line 22 – p. 62 line 24

p. 64 line 10 – p. 64 line 11

p. 64 line 19

p. 65 line 7 – p. 65 line 9

p. 67 line 18 – p. 67 line 19

p. 79 line 24 – p. 79 line 25

p. 80 line 1 – p. 80 line 13

p. 84 line 14 – p. 84 line 20

p. 85 line 3 – 5

p. 86 line 4 – 5

p. 86 line 9

p. 87 line 12 – p. 87 line 13

p. 88 line 2 – p. 88 line 4

p. 89 line 9

p. 101 line 4 – p. 104 line 16

p. 106 line 8 – p. 106 line 12

p. 115 line 24 – p. 115 line 25

p. 132 line 5

p. 133 line 4 – p. 133 line 5

p. 135 line 17 – p. 135 line 18

p. 136 line 4

p. 136 line 10 - 12

p. 137 line 10 – p. 137 line 12

p. 143 line 19 – p. 144 line 9

p. 144 line 13 – p. 145 line 2

p. 145 line 15 – p. 145 line 21

p. 146 line 2 – p. 146 line 8

p. 148 line 7 – p. 148 line 10

p. 149 line 20 – p. 150 line 6

p. 157 line 13 – p. 157 line 14

**Mary Beth Lewicki**

Any designations made by Plaintiff

p. 34 line 3 – p. 34 line 4

p. 44 line 13 – p. 44 line 23

p. 48 line 22

p. 51 line 6 – p. 51 line 20

p. 59 line 23 – p. 60 line 15

p. 63 line 23 – p. 63 line 25

p. 65 line 17 – p. 66 line 3

p. 67 line 22 – p. 67 line 25

p. 68 line 2

p. 68 line 25 – p. 69 line 24

p. 73 line 7 – p. 73 line 9

p. 75 line 14 – p. 76 line 4

p. 77 line 4 – p. 77 line 5

p. 78 line 11

p. 71 line 5 – p. 72 line 10

p. 81 line 23 – p. 82 line 17

p. 89 line 25 – p. 90 line 18

p. 92 line 23 – p. 93 line 6

p. 96 line 15 – p. 97 line 11



p. 97 line 18 – p. 98 line 7

p. 99 line 22 – p. 99 line 24

p. 100 line 9 – p. 100 line 21

**Talton Embry**

All portions of Mr. Embry's deposition *except* the following:

p. 76, ln. 19 - p. 77, ln. 10

p. 79, lns. 3-20

p. 97, ln. 19 - p. 98, ln. 13

p. 141, ln. 15 - p. 142, ln. 15